



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,541	10/14/2003	Steven Zuloff	502-P-006	5584

7277 7590 03/02/2005

HOWARD C. MISKIN
C/O STOLL, MISKIN, & BADIE
THE EMPIRE STATE BUILDING
350 FIFTH AVENUE SUITE 4710
NEW YORK, NY 10118

EXAMINER

CRANSON JR, JAMES W

ART UNIT	PAPER NUMBER
----------	--------------

2875

DATE MAILED: 03/02/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

H-A

Office Action Summary	Application No. 10/684,541	Applicant(s) ZULOFF, STEVEN	
	Examiner James W. Cranson	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 14 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 24-33 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-9, 13, 15-17, 19, 21 and 27 is/are rejected.
- 7) ☒ Claim(s) 3, 10-12, 14, 18, 20, 22, 23, and 28-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>4/19/2004</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

Claims 1,2,9,15,and 16 rejected under 35 U.S.C. 102(a) as being anticipated by USPN 6,579,495 to Maiden. A portable black light device comprising a portable housing , a plurality of opening on housing, a plurality of UV LEDs, one UV LEDs in each opening facing outward and a power source for energizing LEDs is disclosed by Maiden.

Regarding claim 1.

A portable black light device (10), comprising:

- a) a portable housing (16);
- b) a plurality of opening on said housing (ultraviolet transmission means 17 for UV LEDs 14, column 2, lines 59-60"sealed UV-LED packages")
- c) a plurality of UV LEDs, one UV LEDs in each opening facing outwardly from opening (figure 1, facing outward, UV LEDs are 14); and
- d) a power source (18) within the housing for energizing each of said UV LEDs(column 2, lines 51-52" UV-LEDs are powered in a conventional manner by a battery 18").

Regarding claim 2, according to claim 1, wherein housing has upper and lower portions, and a plurality of opening on lower portion (figure 1).

Regarding claim 9, according to claim 1, and a power control for selectively energizing

Art Unit: 2875

UV LEDs(column 2, lines 51-52" UV-LEDs are powered in a conventional manner by a battery 18").

Regarding claim 15, according to claim 1, power source has compartment for batteries (fig 1).

Regarding claim 16, according to claim 15, housing has slot for removing power source (column 3, lines 27-30, case includes parts so battery can be replaced).

Regarding claim 17, according to claim 9, power control is a switch (28).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1,4-6, 13,15, 16, 19 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,733,150 to Hanley. A battery powered portable head gear having a brim that uses plural UV LEDs (column 5, lines 37-42,"ultraviolet LEDs may be") is disclosed by Hanley.

Regarding claim 4, according to claim 1, brim same shape as housing, Hanley discloses the claimed invention except for the housing being same shape as the brim. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the brim the same shape as the housing because it has been held that lacking any critically, changing the form or shape of prior art parts does not make the claimed invention patentable over that prior art (In re Dailey, 149 USPQ 47).

Art Unit: 2875

Regarding claim 5, according to claim 1, brim same color as housing, Hanley discloses the claimed invention except for the housing being same shape as the brim. It would have been obvious to one of ordinary skill in the art at the time of the invention to have the brim the same shape as the housing because it has been held that lacking any critically, changing the aesthetic or ornamental design of prior art parts does not make the claimed invention patentable over that prior art (In re Seid, 73 USPQ 431).

Regarding claims 6 and 19, according to claim 1, means for attaching housing to Brim (column 5, lines 27-37).

Regarding claim 13, according to claim 1, wherein at least one protruding lip adjacent each said plurality of opening (figure 1).

Claims 7, 8, and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 6,733,150 to Hanley in view of US 2004/0264176 A1 to Vanderschuit. Hanley does have adhesives or sewing as an attaching means. Vanderschuit in a portable lighted hat teaches using suitable attachment means including adhesives and other fasteners [0066].

Regarding claims 7 and 8, according to claim 6, and claim 21 according to claim 19, wherein attaching means is adhesive, sewing or hooks and loops.

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide Hanley with attachment means that are an adhesive or sewing as taught by Vanderschuit.

The reasons for using the attachment means are ease of manufacture and ease of maintenance.

Allowable Subject Matter

Claims 3,10-12,14,18, 20,22, 23, and 28-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter:
Claim 3, according to claim 1, adds that said portable housing having an upper portion and a lower portion and said plurality of opening are on said upper portion which is not taught or disclosed in the art of record.

Claim 10, according to claim 1, adds “ for incorporating into a head gear having a visor or a brim with a first side adjacent said head gear and a second side opposite said head gear and comprising four opening, two of said opening are equidistant from said first side of said visor or said brim and the other two of said opening are equidistant from said second side of said visor or said brim”which is not taught or disclosed in the art of record.

Claims 11,12, and 14 depend from claim 10 and would be allowable for the same reasons.

Claim 18, according to claim 1, adds “a plurality of ball pivot for mounting each of said plurality of UV LEDs at each of said plurality of opening such that each of said plurality of UV LEDs is pivotable to different angles” which is not taught or disclosed in the art of record.

Claims 20 and 21 depend from claim 18 would be allowable for the same reasons.

Claims 22, 23, according to claims 2,3 add “an arched channel on said upper portion of said housing and each of said plurality of opening is within said arched channel” which is not taught or disclosed in the art of record.

Claims 28, 29 according to claim 27, add fluorescent and phosphorescent paints that UV LEDs are directed toward which is not found or taught in the art of record.

Claims 30, 31 according to claim 27, add fluorescent and phosphorescent decorative elements that UV LEDs are directed toward which is not found or taught in the art of record.

Claims 32 and 33 depend from claims 30 and 31 and would be allowable for the same reasons.

Claims 24-26 are allowed.

The following is an examiner's statement of reasons for allowance: Independent claim 24 recites "The combination of a portable black light and at least one fluorescent paint for making a marking on a surface, comprising:

- a) at least one fluorescent paint for making a marking on a surface;
- b) a portable housing;
- c) a plurality of opening on said housing facing said marking;
- d) a plurality of UV LEDs, one UV LED in each opening facing outwardly from said opening for lighting said marking; and
- e) a power source within the housing for energizing each of said UV LEDs" which is not taught or disclosed in the art of record.

Independent claim 25 replaces fluorescent paint with phosphorescent paint and would be allowable for the same reasons.

Independent claim 26, adds making a marking on the wearer's face and other limitations to the limitations of claim 24 and would be allowable for the same reasons as claim 24.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

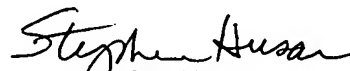
Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James W. Cranson whose telephone number is 571-272-2368. The examiner can normally be reached on Mon-Fri 8:30A.M.- 5:00P.M..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandy O'Shea can be reached on 571-272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).





Stephen Husar
Primary Examiner